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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/524,076 | 03/13/2000 | Peter Chalkowsky | TN-1698 | 6474 |

7590

10/21/2003

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EXAMINER

ASHLEY, BOYER DOLINGER

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 10/21/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/524,076

Applicant(s)

CHALKOWSKY, PETER

Examiner

Boyer D. Ashley

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3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/5/03 has been entered, wherein claims 1 and 4 were amended.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-6 are rejected under 35 U.S.C. 102(a) as being anticipated by DE 197 06 408, hereinafter DE '408.

DE '408 discloses the same invention as claimed as set forth in paragraph 4 of paper number 6 and further including, for example, a non-removable fence (6',7') attached to the base assembly (16/17) for supporting a workpiece; and wherein the area of the blade below the table plane when plunged is capable of being between about 14.4 % and 17.5 % depending upon how much the blade is moved.

As to claim 3, the side stop (6') is slidable mounted.

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As to claim 5, the distance between the blade center and the table plane is capable of being about 0.57 time the radius of the 10 inch diameter blade of DE '408, when the blade is plunged below the table plane depending upon how much the blade is moved/plunged.

As to claim 6, the chord length of the 10-inch diameter blade of DE '408 at the periphery when the plunged below the table plane is at least 1.5 times the radius depending upon the amount of the blade that is plunged/moved.

Allowable Subject Matter

4. Claims 7-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

Applicant contends that when the blade of DE '408 is plunged below the table plane, 18.22 percent of the total blade area is below the table. However, as stated above the blade of DE '408 is fully capable of having about 14.4 to 17.5 percent of the total blade area below the table plane depending upon the amount of the blade that is plunged/moved.

Applicant contends that the fences of DE '408 can be removed yet the claims of the instant application require that the fence be non-removable. However, DE '408 discloses that the fences, particularly the embodiment of Figure 5, can be integrally

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formed with the bed plate unit. Therefore, DE '408 discloses fences that are non-removable.

Applicant further contends that the arrangement of the embodiment of Figure 5 can not cut both nominal 4x4's and 6.5x3/4's. However, the examiner respectfully disagrees. The arrangement of the embodiment of Figure 5 of DE '408 is clearly capable of cutting both 4x4's and 6.5x3/4's by merely locating the 4x4's in the center (not against the fence) and locating the 6.5x3/4's against the fence.


6. For the reasons above, the grounds of rejection are deemed proper.

Response to Amendment

7. The declaration under 37 CFR 1.132 filed 9/5/03 is insufficient to overcome the rejection of claims 1-6 based upon DE '408 as set forth in the last Office action because claims 1-6 are no longer rejected under 35 USC 103.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 703-308-1845. The examiner can normally be reached on Monday-Thursday 7:30-6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Boyer D. Ashley
Primary Examiner
Art Unit 3724

BDA
September 4, 2003